

alternative standard of the electioneering communications statute, which was very similar to the clause, “taken as a whole.” However, he noted that the language is in the statute, and if the BCRA courts find the language unconstitutional, there may need to be a legislative change next year.

Chuck Bell, from Bell, McAndrews, Hiltachk and Davidian, agreed that it would be prudent to wait to see the effect of the BCRA decision. He believed the Ninth Circuit decision supported the *Davis* view of *Furgatch*, and deferred to the California courts the interpretation of state law, even though that interpretation was based on the possible unconstitutionality of the state statute and regulation. The Ninth Circuit decision says that words must be looked at without considering external contexts. He agreed that the regulation will probably need to be amended, and the statute reviewed, in light of the *Davis* decision. Complicating the issue, the BCRA decision and § 85310 deal with issue advocacy, while *Davis* interprets the meaning of the term “independent expenditure.” Mr. Bell questioned whether the Supreme Court would provide a clear resolution of the issues. He suggested that the Ninth Circuit decision raised some question regarding whether the disclosure requirements for issue advocacy communications under § 85310 are constitutional. He cautioned against relying on the district court’s *McConnell* decision because observers believe it cannot be rationally construed to have any defining meaning and will be subject to Supreme Court Review. He urged the Commission to wait to change the regulations, and to apply *Davis* in the interim.

There was no objection from the Commission to taking on regulatory action at this time.

Item #7. 2003 Campaign Manual Addendum. Staff: Technical Assistance Division Chief Carla Wardlow.

Technical Assistance Division Chief Carla Wardlow presented the 2003 Campaign Manual Addendum for the Commission’s approval. She explained that it highlighted changes to the Act and the regulations since the last full campaign disclosure manuals were published. She noted that the Commission directed staff to prepare new campaign disclosure manuals in 2003, and reported that the project is almost ready for Legal Division review.

Commissioner Swanson moved approval of the Campaign Manual Addendum as presented.

Commissioner Knox seconded the motion.

Commissioners Downey, Karlan, Knox, Swanson and Chairman Randolph voted “aye.” The motion carried unanimously.

Items #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24.

Commissioner Downey moved that the following enforcement items be approved on the consent calendar:

Item #8. In the Matter of D. Barton Doyle, FPPC No. 00/045. (1 count.)